

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

CONSTRUCTION INDUSTRY LABORERS)	
PENSION FUND, et al.,)	
)	
Plaintiffs,)	
)	
v.)	No. 4:15-CV-804 CAS
)	
WELLINGTON CONCRETE, LLC,)	
)	
Defendant.)	

ORDER OF CONTEMPT

This matter came before the Court for hearing on plaintiffs’ motion for contempt against defendant Wellington Concrete, LLC (“Wellington”), through its corporate representative, Timothy Benden. By Order to Show Cause dated July 12, 2018 (Doc. 37), the Court ordered Mr. Benden to personally appear before the Court and show cause why he should not be held in contempt for failing to comply with the Court’s Memorandum and Order of June 6, 2018 (Doc. 34), which directed him to produce certain documents and answer plaintiffs’ deposition questions in writing no later than June 18, 2018.

Plaintiffs’ counsel and Mr. Benden appeared before the Court at the show cause hearing on August 9, 2018. Mr. Benden brought to the hearing certain documents and written answers to plaintiffs’ deposition questions. Mr. Benden offered no explanation or reason as to why he did not timely comply with the Court’s Memorandum and Order of June 6, 2018. The Court finds that Mr. Benden is in contempt of the Court’s Order of June 6, 2018.

Upon brief review of the information provided by Mr. Benden, plaintiffs’ counsel stated that Mr. Benden’s written answers to deposition questions were in some instances vague or incomplete.

Mr. Benden was placed under oath to answer counsel's questions seeking to clarify those answers. Mr. Benden was not able to answer all questions and agreed to provide additional information and documentation.

In order to compel compliance with its orders, the Court will order Mr. Benden incarcerated until he purges himself of contempt by fully answering plaintiffs' deposition questions and providing documents. The order of incarceration will be held in abeyance for fourteen (14) days to allow Mr. Benden to provide the additional information and documents, as specified below, by August 23, 2018. Plaintiffs' counsel will notify the Court in writing as to Mr. Benden's compliance with the terms of this Order. If Mr. Benden timely and fully complies with this Order, his contempt of Court will be purged. If the Court is notified that Mr. Benden has not fully and timely complied with this Order, the Court will issue an order of body attachment that directs the U.S. Marshal to bring Mr. Benden before the Court so he may be incarcerated until he fully complies.

Accordingly,

IT IS HEREBY ORDERED that plaintiffs' Motion for Contempt is **GRANTED** as set forth herein. [Doc. 35]

IT IS FURTHER ORDERED that to purge himself of contempt of Court, Wellington Concrete, LLC's corporate representative Timothy Benden shall, no later than **Thursday, August 23, 2018**, produce the following documents and provide the following information to plaintiffs' counsel in writing:

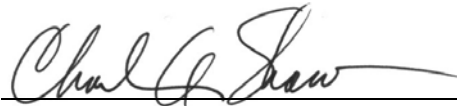
1. A complete list of all Wellington Concrete, LLC projects from July 1, 2016 to date.
2. A complete list of all Wellington Concrete, LLC construction equipment, accounts receivable, and motor vehicles owned from July 1, 2016 to date.
3. The date of sale, contract of sale, and any other contracts between Wellington Concrete, LLC, and LBC 3.

4. Any bankruptcy petitions filed by Timothy Benden or Wellington Concrete, LLC.
5. The date Timothy Benden filed a bankruptcy petition.
6. The dollar amount Wellington Concrete, LLC or Timothy Benden owes to the Internal Revenue Service.

IT IS FURTHER ORDERED that Mr. Benden shall be incarcerated until he purges himself of contempt by fully answering the questions and providing the documents specified in this Order. The order of incarceration will be held in abeyance for fourteen (14) days to allow Mr. Benden to answer the questions and provide the documents identified above by **August 23, 2018**. If Mr. Benden timely and fully complies with this Order, his contempt of Court will be purged. If Mr. Benden does not fully and timely comply with this Order, the Court will enforce it by issuing an order of body attachment that directs the U.S. Marshal to bring Mr. Benden before the Court so he may be incarcerated until he purges himself of contempt by fully complying with this Order.

IT IS FURTHER ORDERED that plaintiffs shall promptly notify the Court in writing as to Mr. Benden's compliance with the terms of this Order.

IT IS FURTHER ORDERED that the Clerk of the Court shall mail a copy of this Order to Timothy Benden, at 130 Cuivre Parc, Troy, Missouri 63379.


CHARLES A. SHAW
UNITED STATES DISTRICT JUDGE

Dated this 9th day of August, 2018.